Calendar No. 717

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-503

ACCESS TO TELEPHONES FOR THE HEARING IMPAIRED

JULY 22 (legislative day, JULY 12), 1982.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 2355]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2355) to amend the Communications Act of 1934 to provide that persons with impaired hearing are ensured reasonable access to telephone service, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

PURPOSE OF BILL

The legislation directs the Federal Communications Commission (FCC) to address the telephone service needs of the hearing impaired by ensuring reasonable access to telephone service to those individuals.

BACKGROUND AND NEEDS

For many years, telephones manufactured by Western Electric, and therefore most of the telephones available in the United States, generated an unintended magnetic field in the handset. Hearing aid manufacturers were able to use this magnetic field to couple with their hearing aids by means of an induction coil in the hearing aid. Rather than picking up audible sound from the telephone receiver, the hearing aid recreates the sound with no background noise and with much better quality. For perhaps 2 million people with specially equipped hearing aids, the use of the magnetic field and the induction coil provides superior hearing and, for some users, the only feasible means of using the telephone. In the 1960's, Western Electric developed a new handset which was cheaper and lighter. At the same time, however, it elimi-

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nated the magnetic field and therefore made it difficult or impossible for some people to use those handsets.

Legislation (such as S. 604) has been suggested which would make it illegal to manufacture or sell telephones which do not generate a magnetic field. Substantially identical legislation has been around for several years, and the telephone industry opposes such legislation. They argue that they have made virtually all pay phones compatible with hearing aids (including the retrofitting of pay phones manufactured by GTE and others which were not originally compatible). The industry also provides, upon request and at no extra cost, specially equipped phones which will generate a magnetic field. The industry also argues it would be far cheapter to modify 2 million hearing aids than to modify 250 million phones. While the telephone industry has a variety of other arguments, the most compelling and legitimate objection is that new forms of transmission in the future (using digital technology or fiber optic technology) will require very little electric current and are incompatible with the requirement that telephones have enough electricity to generate a magnetic field. In the face of such objections by the telephone industry, such legislation has never made much progress. Nevertheless, the fact remains that the FCC has never been specifically directed to look at the concerns of the hearing impaired and its only proceeding in this area (begun in 1978) has faded into a bureaucratic void. With this background, the Commerce Committee held hearings on May 6, 1982, to explore the issue and hear views on S. 604 and S. 2355.

Legislative History

S. 2355 was introduced by Senator Cannon (with Senators Goldwater and Riegle) on April 1, 1982. The Subcommittee on Communications held hearings on the bill on May 6, 1982. The committee has considered all views presented in recommending the legislation reported herein.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., July 20, 1982.

Hon. Bob Packwood,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2355, a bill to amend the Communications Act of 1934 to provide that persons with impaired hearing are ensured reasonable access to telephone service, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on July 14, 1982.

S. 2355 would require the Federal Communications Commission (FCC) to develop regulations to ensure reasonable access to telephone service to the hearing impaired. Based on information provided by the FCC, it is estimated that approximately $200,000 will be required for staff time plus overhead in order to complete the rulemaking within one year after the date of enactment, as required in the bill. In addition, it is likely that a minimum level of monitoring and enforcement will be required for approximately one year after completion of the rulemaking, although the cost of these activities is not expected to be significant.

Should the Committee so desire, we would be pleased to provide additional detail regarding this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

S. 2355, as reported, requires the FCC to establish regulations to assure the hearing impaired reasonable access to telephone service. The FCC must weigh costs and benefits to all telephone users, and may not discourage the development of new telephone technology. At a minimum, implementation of this legislation would require a rulemaking proceeding (1) to develop and adopt regulations, including technical standards governing the design and manufacture of coin-operated public telephones to ensure that hearing-impaired people would find these telephones to be compatible with their hearing aids, and (2) to determine the information consumers need to understand whether a telephone is compatible with hearing aids, and to require that this information be included on all telephone packaging. The FCC employs staff who possess the engineering and drafting expertise necessary to complete such a rulemaking, and the proceeding can be completed within the 1 year period designated by this legislation. Enforcement of the resulting regulations will be required, including the monitoring of manufacturers and telephone companies.

SECTION-BY-SECTION ANALYSIS

Subsection (a) of S. 2355 directs the FCC to establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing. This is the first time that the FCC has been directed to devote its attention to the telephone service needs of persons with hearing impairments. This legislation is not intended to extend the FCC's jurisdiction to the hearing aid industry. The Commission's mandate to ensure reasonable access to telephone service is limited to regulations which govern the manufacture, sale, lease, or interconnection of terminal equipment. In ensuring reasonable access to telephone service, the Commission will have to comply with the provisions of subsection (e), which are intended to prevent the Commission from imposing unnecessary or unjustifiable regulations on any party.

Subsection (b) directs the Commission to require that coin-operated telephones be designed, manufactured and operated so as to "provide internal means for coupling with hearing aids." The Committee notes that current means of providing such coupling utilize hearing aids equipped with inductive receptors that respond to the magnetic signals generated by many telephone handsets. S. 2355, as originally introduced, referred to that specific coupling method. This language has been replaced with the non-specific language quoted above to prevent this legislation from impeding the development of new technology which can provide benefits similar to those currently achieved through inductive means. Subsection (b) further provides that the Commission may require other telephones frequently used by the public or provided for emergency use be similarly designed, manufactured and operated. By "other telephones frequently used by the public," the Committee intends to describe telephones such as those in hospital rooms. "Phones provided for emergency use" would include telephones such as those installed in elevators or those provided to report fires. The Committee believes that the Congress should delegate to the Commission the task of delineating the exact scope of these phrases. The Committee strongly encourages the Commission to exercise its discretion in this area and implement its authority through appropriate rulemaking procedures.

Nothing in subsection (b) should be construed as limiting subsection (a).

Subsection (c) states that the Commission may establish such technical standards as are required in order to ensure compatibility between telephones and hearing aids. The Committee notes that the hearing aid industry and the telephone industry have made substantial progress towards setting such standards. The Committee hopes that the two industries will develop satisfactory standards and that it will not be necessary for the Commission to formulate such standards. This subsection, however, gives the Commission the authority to set such standards in the absence of industry agreement. The Committee intends that any standards established by the Commission, or any standards developed by the industry and adopted by the Commission, be exclusive standards; that the role of setting or approving standards be solely under the jurisdiction of the Commission; and that States and their political subdivisions be preempted from establishing such technical standards. The Committee believes that such standards must be uniform nationally. With the exception of this subsection, nothing else in this legislation is intended to change the division of jurisdictional responsibility any way nor to restrict the rights of States.

Subsection (d) directs the Commission to establish such requirements for the labeling of packaging material as are needed to provide adequate information to consumers about the compatibility of telephones and hearing aids. As originally introduced, S. 2355 would have directed the Commission to establish such requirements for both packaging materials and equipment. As a result of the Committee's hearings on this bill, the Committee is convinced that it is not necessary to label equipment itself. Telephone equipment is now assembled with modular components, and the only effective location for a permanent label would be the telephone handset. Because such telephone equipment is often refurbished and reassembled with new components, however, a permanent label attached to the outer shell of the handset

might be inaccurate or misleading after refurbishment The Committee concludes that packaging materials and other materials supplied at the time of purcahse will provide adequate and accurate information to consumers.

Subsection (e) directs the Commission to specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments, in any rulemaking to implement the section. It further directs the Commission to ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage the development of new technology.

Subsection (f) directs the Commission to complete rulemakings required by this legislation within one year of the date of enactment. The Commission is further directed to periodically review such rules and regulations to determine whether reasonable access is provided without imposing undue costs or discouraging the development of new technology. Except for coin-operated public telephones and telephones provided for emergency use, the Commission is prohibited from requiring the retrofitting of existing equipment.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman) :

Communications Act of 1934

New section 225 of that Act.

TELEPHONE SERVICE TO PERSONS WITH IMPAIRED HEARING

Sec. 225. (a) The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

(b) In ensuring such access, the Commission shall require that coin-operated public telephones be designed, manufactured, and operated so as to provide internal means for coupling with hearing aids. The Commission may also require that other telephones frequently used by the public or provided for emergency use be similarly designed, manufactured, and operated.

(c) The Commission may establish such technical standards as are required in order to ensure compatibility between telephones and hearing aids.

(d) The Commission shall establish such requirements for the labeling of packaging materials for equipment as are needed to provide adequate information to consumers on the compatibility between telephones and hearing aids.

(e) In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments. The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of new technology.

(f) The Commission shall complete rulemaking actions required by this section and issue such rules and regulations resulting therefrom within one year after the date of enactment of this section of the Act. Thereafter the Commission shall periodically review such rules and regulations. Except for coin-operated public telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section.

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Calendar No. 720

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-505

MOTOR VEHICLE SAFETY AND COST SAVINGS AUTHORIZATION ACT OF 1982

JULY 27 (legislative day, JULY 12), 1982.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 6273]

The Committee on Commerce, Science, and Transportation to which was referred the bill (H.R. 6273) to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1983, 1984, and 1985, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF BILL

The National Highway Traffic Safety Administration (NHTSA) of the Department of Transportation (DOT) is responsible for motor vehicle safety on our Nation's highways. While existing safety standards have been successful to date, traffic fatalities are likely to significantly increase primarily due to the shift to smaller, more fuel-efficient automobiles which are inherently less safe in crashes than larger cars, unless major safety improvements are made.

This legislation amends the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1983, 1984, and 1985 for the purpose of carrying out various NHTSA programs. The legislation would also clarify State authority in enforcing motor vehicle equipment safety standards, establish a voluntary tire registration system for independent dealers and distributors, and provide the Secretary of Transportation with authority to issue public recall notices of defective tires.

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Background and Needs

The National Traffic and Motor Vehicle Safety Act of 1966 directs the Secretary of Transportation, through the NHTSA Administrator, to establish motor vehicle safety standards, to undertake and support necessary safety research and development, and to order recalls or remedies of automotive defects or failure to comply with safety standards. The Motor Vehicle Information and Cost Savings Act was enacted in 1972 to provide consumers with information and cost savings relating to the purchase and maintenance of a motor vehicle.

In June 1982, the House passed the Motor Vehicle Safety and Cost Savings Authorization Act of 1982 (H.R. 6273). The bill was referred to the Commerce Committee, which approved the bill on July 14, 1982 by voice vote.

On March 31, 1982, the Subcommittee on Surface Transportation held a hearing on oversight of the NHTSA. While the need to improve highway safety was a common theme throughout the hearing, witnesses were divided as to NHTSA's performance in promoting safety.

At this hearing, the NHTSA Administrator reaffirmed NHTSA's commitment to saving lives on the highways, stating that NHTSA is, "committed to exploring all alternatives, not merely those which have been tried in the past." The NHTSA Administrator also noted the Agency's emphasis on achieving its mission objectives "through reform of our programs, through enhanced cooperation with other governments, the academic community and the private sector in vehicle research, and through increased emphasis on safety awareness by the driving public." In undertaking its review of all pending and proposed motor vehicle safety and fuel economy standards and regulations, in an effort to eliminate unnecessary regulatory and administrative costs, the NHTSA Administrator stressed that NHTSA's "primary concern with safety regulations has been, and always will be, to concentrate on requirements which directly reduce the threat to human life and debilitating injuries and to weigh carefully the costs associated with these regulations to see that they do not transcend any realistic gain in motor vehicle safety benefits."

Other witnesses, however, charged that NHTSA is not effectively carrying out its mandate to save lives. Witnesses pointed to the following NHTSA actions during 1981 and early 1982 as evidence:

Revoked the airbag standard, which would have required the phased introduction of passive restraints over the 1982–84 model years. NHTSA did indicate it would engage in a strenuous effort to get the auto companies to agree to voluntarily introduce airbags. To date, this effort has not been successful.

Allowed rulemakings governing side impact protection and pedestrian protection in crashes of under 20 miles-per-hour to lay dormant.

Revoked the motor vehicle visibility standard, a virtually no-cost standard to the automotive industry, involving only about 15 percent of the cars that do not meet it today.

Withdrew the Advanced Notice of Proposed Rulemaking for post-1985 fuel economy.

Arranged to transfer one of the key scientific sections of the Agency's vehicle research office—its fuel economy technology assessment activities—to the Department of Commerce.

Announced its intention to focus its major energies and functions on encouraging voluntary seat belt usage as the way to save lives on the highway, despite scientific evidence showing that this type of program—funded by government and industry alike—has not worked in the past in the United States or in many countries abroad.

Withheld or complicated acquisition of numerous different kinds of information which in the past have been readily available to the public. For example, NHTSA has refused to publish the 1982 Car Book to make crashworthiness and other safety information readily and easily available on a widespread basis to the American public. Rather, it has suggested that people should call and take notes over a hotline or request computer printouts on an individual car.

While some of these NHTSA actions may be justified on a cost/benefit basis, NHSTA clearly is embarking on a controversial course, calling into question its commitment to improving highway safety. The Committee intends to closely monitor NHSTA's future activities.

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966

The National Traffic and Motor Vehicle Safety Act of 1966 was enacted by Congress to reduce traffic accidents and deaths and injuries to persons resulting from traffic accidents. Congress thus determined that it is necessary: to establish safety standards for motor vehicles and equipment in interstate commerce; to undertake and support necessary safety research and development; and to expand the National Driver Register.

This act requires the Secretary of Transportation (through NHTSA) to take the following actions in prescribing standards under this act:

1. Consider relevant available motor vehicle safety data, including the results of research, development, testing, and evaluation activities conducted pursuant to this act;

2. As appropriate, consult with State or interstate agencies (including legislative committees);

3. Consider whether a proposed standard is reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed; and

4. consider the extent to which such standards will contribute to carrying out the purposes of this act.

To assure that sufficient funds are available for NHTSA's safety programs, the Committee has authorized $51.4 million for fiscal 1983, $55 million for fiscal 1984, and $58.7 million for fiscal 1985. This is consistent with the President's budget request for fiscal 1983 and continues funding at current policy levels for fiscal years 1984 and 1985.

MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

The Motor Vehicle Information and Cost Savings Act was enacted in 1972 and represented a significant effort by Congress to provide consumers with meaningful information to make informed purchasing decisions, to avoid unnecessary damage to their cars, and to foster easy diagnosis and repair of passenger vehicles.

This act contains the following five Titles.

Title I—Bumper standards

Title I of the Motor Vehicle Information and Cost Savings Act has the purpose of reducing the extent of economic loss resulting from damage to passenger motor vehicles involved in motor vehicle accidents by providing for the promulgation and enforcement of bumper standards. Congress directed that bumper standards "seek to obtain the maximum feasible reduction of costs tc the public and to the consumer," taking into account costs and benefits of the standard as well as health and safety considerations.

To enable NHTSA to continue evaluating the bumper standard, the Committee has authorized $320,000 for fiscal 1983, $343,000 for fiscal 1984, and $365,000 for fiscal 1985.

Title II—Automobile consumer information study

Title II of the Motor Vehicle Information and Cost Savings Act requires NHTSA to compile information relating to the damage susceptibility of passenger motor vehicles, the crashworthiness of such vehicles with respect to the ease of diagnosis and repair of mechanical and electrical systems which fail during use or which are damaged in motor vehicle accidents. NHTSA is required to furnish this information to the public "in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger motor vehicles . . .".

In order to carry out the purposes of Title II, the Committee has authorized $1.677 million for fiscal 1983, $1.8 million for fiscal 1984, and $1.95 million for fiscal 1985.

Title III—Diagnosis inspection demonstration projects

Title III of the Motor Vehicle Information and Cost Savings Act required NHTSA to establish motor vehicle diagnostic inspection demonstration projects. These projects have been concluded and the data have been analyzed.

Title IV—Odometer requirements

Title IV of the Motor Vehicle Information and Cost Savings Act notes the importance of an accurate indication of the mileage travelled by a motor vehicle as it assists the purchaser in determining the safety and reliability of a vehicle. The purpose of this title is therefore to prohibit tampering with odometers on motor vehicles and to establish certain safeguards for the protection of purchasers with respect to the sale of motor vehicles having altered or reset odometers.

To carry out the purposes of this title, the Committee has authorized $0.183 million for fiscal 1983, $0.196 million for fiscal 1984, and $0.210 million for fiscal 1985.

Title V—Improving automotive efficiency

Title V of the Motor Vehicle Information and Cost Savings Act sets fuel economy standards for 1978–80 and 1985 and directs the Secretary to set standards for 1981–84. NHTSA does not plan to set standards beyond 1985 because it believes the marketplace is now demanding fuel efficiency.

STATE ENFORCEMENT AUTHORITY

Section 3 of H.R. 6273 amends section 103(d) of the National Traffic and Motor Vehicle Safety Act of 1966 to provide that States are not prevented from enforcing any safety standard which is identical to a Federal safety standard. The intent of this language is to clarify the role of States in enforcing Federal safety standards which they have adopted as their own.

At the Federal level, under section 114 of the National Traffic and Motor Vehicle Safety Act of 1966, each motor vehicle or motor vehicle equipment manufacturer or distributor must furnish to the dealer or distributor at the time of delivery of such vehicle or equipment the certification that each such vehicle or item of motor vehicle equipment conforms to all applicable Federal motor vehicle safety standards. Because NHTSA cannot test all products for compliance due to budgetary constraints. States have maintained that their approval systems complemented the Federal scheme and ensured that all equipment met Federal standards. NHTSA has a number of enforcement tools available to ensure that self-certified equipment is in compliance with such standards, including random testing, inspections and investigations, recalls, prohibiting sale of noncomplying equipment and civil penalties.

Current section 103(d) of the National Traffic and Motor Vehicle Safety Act of 1966 provides that if a Federal motor vehicle safety standard is in effect, no State or political subdivision of a State may establish a different standard. This section, however, does not directly address the authority of States to enforce safety standards identical to the Federal standards. Since the implementation of the National Traffic and Motor Vehicle Safety Act of 1966, States have assumed an active role in enforcing Federal safety standards which they have adopted as their own. In a formal interpretation of section 103(d) issued in 1971, NHTSA determined that States may enforce standards identical to Federal standards, including requiring submission of items for State approval, as long as such procedures do not prohibit the sale of a manufacturer's equipment pending State approval. States have followed this interpretation for the last decade.

The authority of states to enforce standards has also been addressed in two court cases, *Truck Safety Equipment Institute* v. *Kane*, 419 F. Supp. 688 (M.D.Pa. 1975); vacated, 558 F. 2d 1029 (3rd Cir. 1977); on remand, 466 F. Supp. 1242 (1979). Additionally, in January 1982, NHTSA issued a new opinion on section 103(d) which paralleled the second court case, and stated that the Safety Act pre-empts States from presale enforcement of safety standards, prohibits States from requiring fees for State approval, and prohibits States from imposing requirements for approval which have the effect of prohibiting the sale of equipment which has been self-certified under the Federal statute. In effect, this interpretation changes the methods available to States to enforce safety standards.

Because the Federal court cases and the NHTSA opinion change the scope of traditional State enforcement of safety standards, much uncertainty has resulted concerning the appropriate role of the States. It is the Committee's belief that States have an active and positive role to play in protecting motor vehicle safety, and that this is consistent with the federal statute. The Committee intends, however, that political subdivisions within States should not have separate enforcement authority because the exercise of such authority by large numbers of political subdivisions would impose unreasonable burdens on manufacturers.

The Committee intends that States are not pre-empted from enforcing safety standards identical to Federal standards which they have adopted. States may not require certification or approval of motor vehicles or motor vehicle equipment. However, State enforcement may be carried out according to applicable State laws. States may undertake independent testing, and also may require manufacturers to submit adequate test data concurrent with first sale or thereafter. States may make a determination of the adequacy of such data including review of laboratory qualifications. If test data are not submitted, if a State has good reason to believe that submitted data are inadequate, or if a product does not comply with applicable Federal and identical State-adopted standards, States may use remedies, including prohibition, in accordance with relevant State laws.

Because the Federal role in enforcing safety standards is one of compliance testing on a random basis, the Committee believes that State programs will complement the Federal regulatory scheme. In enforcing standards, States should strive to limit duplication among themselves and with NHTSA. They should be encouraged to share information and administrative costs in order to attain this goal.

TIRE REGISTRATION AND RECALL PROCEDURES

According to NHTSA there is 100 percent tire registration under current law for *original equipment* tires, which come on cars when purchased. However, the registration rate for *replacement tires* for cars is considerably lower—around 46.6 percent. While stores owned by major domestic tire manufacturers (including chain and discount stores) and company owned stores register 80 to 90 percent of the tires sold, independently-owned dealerships (which account for 45 percent of the replacement market), register only 20 percent of the tires they sell. Given the low registration rate for independent dealers and distributors, the Committee believes that a system of voluntary registration for such dealers and distributors (whereby the purchaser fills out his own form and sends it to the manufacturer), would increase registration at least above the present level.

Under current procedures (49 CFR Part 574), tire distributors and dealers are required to send the following information regarding a tire purchase to the manufacturer of the tire: (1) The name and address of the tire purchaser; (2) the tire's identification number; and (3) the name and address of the tire seller (or other means by which the manufacturer can identify the tire seller). This information must be forwarded to the tire manufacturer not less often than every 30 days, unless fewer than 30 tires are sold in that period. In such a case, for-

warding may be delayed until 40 tires are sold or 6 months has passed, whichever comes first. Manufacturers must provide a standard form to the distributor or dealer at his request, but the distributor or dealer may supply his own form.

Section 4 of H.R. 6273 amends section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 to prohibit NHTSA from requiring independent tire dealers or distributors to complete or compile registration records of tire purchasers. Instead, these dealers or distributors are required to furnish the first purchaser of a tire with a standardized registration form, containing the identification number of the tire, which would be recorded on the form by the dealer or distributor at or before the time of purchase. The form should be presented to the purchaser in a manner suitable for mailing and addressed to the tire manufacturer or his designee.

The Committee has included this provision in the hopes that registration will increase. Given the relationship of tire registration to highway safety, and the necessity for tire owners to be notified quickly and efficiently in the event of a recall of defective tires, however, the Committee has provided for a review of the voluntary system by the Secretary of Transportation after 2 years, and periodically thereafter.

This new consumer registration system applies only to dealers not owned or controlled by a manufacturer. The Committee intends that manufacturers of tires, manufacturer-owned stores and brand-named marketeers of tires shall be required to continue to register first purchasers of tires. The Committee intends that "company owned or controlled" means a significant component of direct equity ownership of the dealer or distributor which gives that party, as a factual matter, effective control of the business. Thus, it would not encompass buy-sell agreements, mortgages, notes, franchise agreements or similar financial arrangements which a tire company may have with a dealer or distributor.

Additionally, manufacturers of tires are not responsible for establishing and maintaining records of the names and addresses of first purchasers and for notifying by direct mail tire purchasers who have purchased tires from such independent dealers and distributors, provided that such purchasers do *not* return registration forms to the manufacturer or his designee.

After 2 years of voluntary registration by independent dealers and distributors the Secretary is required to evaluate the effectiveness of the new procedures, and determine whether any other requirements are necessary to increase the registration of tires. New requirements may be proposed by rule, but only if they are necessary to reduce the risk to motor vehicle safety after considering the cost of such requirements compared to the benefits, and the extent to which dealers and distributors have complied with the new procedures. Additional requirements do not necessarily entail a return to the mandatory registration system by independent dealers and distributors, but could take many forms, such as requiring that registration forms have pre-paid return postage. If the Secretary decides that new requirements are necessary, a report must be submitted to Congress. If new requirements are imposed, tire manufacturers must reimburse dealers and distributors for all reasonable costs for compliance with such requirements.

During the Committee's consideration of this provision, concern was expressed as to the potential burden on tire manufactures if mandatory requirements are imposed if the voluntary system does not work. The Committee shares the concern that the "reasonable costs" of compliance to be borne by the manufacturers not be unduly burdensome. It is the sense of the Committee that NHTSA will consider any such costs in any rulemakings implementing mandatory registration requirements in the future. The Committee intends that the utmost care be used in determining the precise regulatory requirements which may be eligible for reimbursement by tire manufacturers as well as in establishing guidelines for determining "reasonable costs."

The Committee also intends that the Secretary should exercise discretion with due care, as allowed under section 109(b) of the National Traffic and Motor Vehicle Safety Act of 1966 in assessing penalties for violations by independent dealers and distributors for non-compliance with the voluntary registration procedures. The Committee would expect that such dealers and distributors would not receive the maximum penalty per violation, unless there is a clear, continuous pattern of violations of these procedures. The inadvertent failure of an employee to give a customer a form in an isolated instance should not be treated in the same manner as a pattern of violations. The Committee intends to emphasize the safety aspects of the tire registration system, and its importance in alerting tire owners to potential defects and safety risks. The Committee thus intends that tire dealers and distributors take active steps to encourage registration.

H.R. 6273 also amends section 153(c) of the National Traffic and Motor Vehicle Safety Act of 1966 to give the Secretary of Transportation the authority to issue a public notice of a recall of defective tires after consultation with the tire manufacturer and consideration of the magnitude of the safety risk caused by the defect and the cost of such public notice compared to the additional number of owners who could be notified by such action.

These public notice provisions are intended to increase the efficiency and effectiveness of recalls of defective tires. Less than half of the tires sold in the replacement market are currently registered, thus only about half of tire owners will receive notification by mail of a defect should a recall be undertaken. Therefore, the Committee believes that the Secretary of Transportation should have authority to require public notice, under the conditions set forth above, in order to ensure that people driving with defective tires are informed of potential hazards as expeditiously as possible.

LEGISLATIVE HISTORY

On March 31, 1982, the Subcommittee on Surface Transportation conducted a hearing on oversight of NHTSA. Testimony was presented by current and former NHTSA officials, representatives from State motor vehicle administrators, public interest groups, independent researchers, and nonprofit consumer groups.

In June 1982, the House passed the Motor Vehicle Safety and Cost Savings Authorization Act of 1982 (H.R. 6273). The bill was referred to the Commerce Committee.

On July 14, 1982, the Committee ordered H.R. 6273 reported by a voice vote.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., July 19, 1982.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 6273, the Motor Vehicle Safety and Cost Savings Authorization Act of 1982.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN. *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

JULY 19, 1982.

1. Bill number: H.R. 6273.

2. Bill title: Motor Vehicle Safety and Cost Savings Authorization Act of 1982.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation July 14, 1982.

4. Bill purpose: The bill authorizes total appropriations of $53.580 million for fiscal year 1983, $57.339 million for fiscal year 1984, and $61.225 million for fiscal year 1985 for operations and research activities of the National Highway Traffic Safety Administration (NHTSA).

The authorization levels in the bill are those requested in the President's budget for fiscal year 1983.

5. Cost estimate:

	Millions
Authorization level:	
Fiscal year:	
1983	$53.6
1984	57.3
1985	61.2
1986	-----
1987	-----
Estimated outlays:	
Fiscal year:	
1983	46.6
1984	54.2
1985	60.5
1986	7.8
1987	2.8

Including outlays from prior year's budget authority enacted to date, but excluding the approximately one-third share of outlays attrib-

utable to funding from the Highway Trust Fund, outlays for the activities authorized by this bill will be $52.2 million in fiscal year 1983.

The costs of this bill fall within budget function 400.

6. Basis of estimate: For the purposes of this estimate, it is assumed that the full amounts authorized will be appropriated prior to the beginning of each fiscal year. The authorization levels are those specified in the bill. Outlays were estimated using recent historical disbursement rates for NHTSA's operations and research activities. Estimated outlays reflect only that portion of NHTSA activities authorized under the National Traffic and Motor Vehicle Safety Act and the Motor Vehicle Information and Cost Savings Act.

7. Estimate comparison: The Administration has estimated that the 1983 outlays for these activities funded through general funds will be approximately $52.2 million, assuming appropriation of the $53.6 million requested by the President.

8. Previous CBO estimate: On May 14, 1982 the Congressional Budget Office prepared a cost estimate on H.R. 6273, as ordered reported by the House Committee on Energy and Commerce. That estimate incorrectly included the automotive fuel economy program when comparing H.R. 6273 with the Administrations' request.

On May 17, 1982 the Congressional Budget Office prepared a revised cost estimate for H.R. 6273, as ordered reported by the House Committee on Energy and Commerce. The estimate for that bill is identical to this estimate.

9. Estimate prepared by: Patrick J. McCann.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impacts of the legislation:

NUMBER OF PERSONS COVERED

H.R. 6273, as reported, continues existing programs under the National Traffic and Motor Vehicle Information and Cost Savings Act. Thus the number of persons covered should be consistent with current levels.

ECONOMIC IMPACT

Section 2 of H.R. 6273 authorizes funding of $51.4 million in fiscal 1983, $55 million in fiscal 1984, and $58.7 million in fiscal 1985. These levels represent a decrease from the $60 million funding level authorized since fiscal 1976. The moderate increase in funding between fiscal years 1983 and 1985 is designed to permit program growth where needed and to compensate for general projected increases in the cost of living. This funding will be used to conduct auto safety research, provide consumer information, conduct defect and noncompliance testing, promulgate safety standards, and generally enforce provisions of

the act. These activities are not expected to have an inflationary impact on the Nation's economy.

Section 2 also authorizes appropriations of $2.18 million for fiscal 1983, $2.339 million for fiscal 1984, and $2.525 million for fiscal 1985 to fund various programs under the Motor Vehicle Information and Cost Savings Act. This funding will be used to evaluate cost savings to consumers by promoting damage-resistent bumpers, improve consumer access to cost saving information, and generally protect consumers from odometer fraud. It is conceivable that the net effect of these efforts would have a deflationary impact on the national economy.

Section 3 of H.R. 6273 contains provisions for State enforcement which should complement Federal efforts and may result in an increase in overall efficiency in the marketplace.

The tire registration and recall provisions of section 4 of H.R. 6273 should reduce overall paperwork and may possibly have a deflationary effect on the cost of tires and related products.

PAPERWORK

No additional reporting requirements are imposed by sections 2 or 3. Section 4 requires the Secretary of Transportation to submit a report to Congress if he decides that new tire registration requirements are necessary, after evaluation of the voluntary tire registration procedure. If new requirements are imposed, tire manufacturers must reimburse dealers and distributors for all reasonable costs for compliance with such requirements. The overall effect of this provision, however, together with the section 4 provision giving the Secretary authority to issue a public notice of recall of defective tires, would be to reduce overall paperwork by manufacturers, dealers and distributors of tires.

Section-by-Section Analysis

SECTION 1. SHORT TITLE

This section provides that the legislation may be cited as the "Motor Vehicle Safety and Cost Savings Authorization Act of 1982."

SECTION 2. AUTHORIZATION OF APPROPRIATIONS

This section amends section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations of $51.4 million for fiscal year 1983, $55 million for fiscal year 1984, and $58.7 million for fiscal year 1985, in order for NHTSA to carry out its motor vehicle safety responsibilities.

This section amends three sections of the Motor Vehicle Information and Cost Savings Act. Section 111 is amended to authorize appropriations of $320,000 for fiscal year 1983, $343,000 for fiscal year 1984, and $365,000 for fiscal year 1985 to enable NHTSA to carry out its responsibilities regarding establishment of bumper standards. Section 209 is amended to authorize appropriations of $1.677 million for fiscal year 1983, $1.8 million for fiscal year 1984, and $1.95 million for fiscal year 1985, to enable NHTSA to compile and provide information to the public on various makes and models of passenger motor vehicles. Sec-

tion 417 is amended to authorize appropriations of $183,000 for fiscal year 1983, $196,000 for fiscal year 1984, and $210,000 for fiscal year 1985 to enable NHTSA to carry out its responsibilities in preventing odometer fraud.

SECTION 3. STATE ENFORCEMENT AUTHORITY

This section amends section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 to provide that States are not prevented from enforcing any safety standard which is identical to a Federal safety standard. Current law does not directly address the authority of States to enforce such identical safety standards.

SECTION 4. TIRE REGULATION INFORMATION: NOTICE OF TIRE DEFECTS

This section amends section 158 of the National Traffic and Motor Vehicle Safety Act of 1966 to establish a voluntary tire registration program to increase the registration rate for independent dealers and distributors. The first purchaser of a tire will be furnished a registration form which he may complete and return to the tire manufacturer. The Secretary of Transportation will be required to evaluate the effectiveness of the voluntary system after 2 years and determine whether any other requirements are necessary to increase tire registrations and reduce the risk to motor vehicle safety. If the Secretary decides that new requirements are necessary, a report must be submitted to Congress. If new requirements are imposed, tire manufacturers must reimburse dealers and distributors for all reasonable costs for compliance with such requirements.

This section also amends section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 to give the Secretary the authority to issue a public notice of recall of defective tires after consultation with the tire manufacturer and consideration of the magnitude of the safety risk caused by the defect and the cost of such notice as compared to the additional number of owners who could be notified by the public notice.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italics, existing law in which no change is proposed is shown in roman):

National Traffic and Motor Vehicle Safety Standards

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Sec. 103. (a) * * *

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(d) Whenever a Federal motor vehicle safety standard established under this title is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any motor vehicle or item of motor vehicle equipment any safety standard applicable to the same aspect of per-

formance of such vehicle or item of equipment which is not identical to the Federal standard. *Nothing in this section shall be construed as preventing any State from enforcing any safety standard which is identical to a Federal safety standard.* Nothing in this section shall be construed to prevent the Federal Government or the government of any State or political subdivision thereof from establishing a safety requirement applicable to motor vehicles or motor vehicle equipment procured for its own use if such requirement imposes a higher standard of performance than that required to comply with the otherwise applicable Federal standard.

* * * * * * *

SEC. 121. There authorized to be appropriated for the purpose of carrying out this Act, [not to exceed $13,000,000 for the transition period July 1, 1976, through September 30, 1976, $60,000,000 for the fiscal year ending September 30, 1977, and $60,000,000 for the fiscal year ending September 30, 1978.] *$51,400,000 for fiscal year 1983, $55,000,000 for fiscal year 1984, and $58,700,000 for fiscal year 1985.*

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PART B—DISCOVERY, NOTIFICATION, AND REMEDY OF MOTOR VEHICLE DEFECTS

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CONTENTS, TIME, AND FORM OF NOTICE

SEC. 153. (a) * * *

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(c) The notification required by section 151 or 152 with respect to a motor vehicle or item of replacement equipment shall be accomplished—

(1) in the case of a motor vehicle, by first class mail to each person who is registered under State law as the owner of such vehicle and whose name and address is reasonably ascertainable by the manufacturer through State records or other sources available to him;

(2) in the case of a motor vehicle, [or tire,] by first class mail to the first purchaser (or if a more recent purchaser is known to the manufacturer, to the most recent purchaser known to the manufacturer) of each such vehicle [or tire] containing such defect or failure to comply, unless the registered owner (if any) of such vehicle was notified under paragraph (1);

(3) in the case of an item of replacement equipment (other than a tire), (A) by first class mail to the most recent purchaser known to the manufacturer; and (B) if the Secretary determines that it is necessary in the interest of motor vehicle safety, by public notice in such manner as the Secretary may order after consultation with the manufacturer;

(4) *in the case of a tire (A) by first-class mail to the most recent purchaser known to the manufacturer; and (B) by public notice with the manufacturer, if the Secretary determines that such public notice is necessary in the interest of motor vehicle safety, after considering (i) the magnitude of the risk to motor*

vehicle safety caused by the defect or failure to comply; and (ii) the cost of such public notice as compared to the additional number of owners who could be notified as a result of such public notice;

[(4)](*5*) by certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such motor vehicle or replacement equipment was delivered; and

[(5)](*6*) by certified mail to the Secretary, if section 151 applies.

In the case of a tire which contains a defect or failure to comply [(or of a motor vehicle on which such tire was installed as original equipment)], the manufacturer who is required to provide notification *by first-class mail* under paragraph [(1) or (2)] (*4*)(*A*) may elect to provide such notification by certified mail.

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INFORMATION, DISCLOSURE, AND RECORDKEEPING

SEC. 158. (a) * * *

(b)(*1*) Every manufacturer of motor vehicles or tires except the manufacturer of tires which have been retreaded, shall cause the establishment and maintenance of records of the name and address of the first purchaser of each motor vehicle and tire produced by such manufacturer. To the extent required by regulations of the Secretary, every manufacturer of motor vehicles or tires except the manufacturer of tires which have been retreaded, shall cause the establishment and maintenance of records of the name and address of the first purchaser of each item of replacement equipment other than a tire produced by such manufacturer. The Secretary may, by rule, specify the records to be established and maintained, and reasonable procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection; except that the availability or not of such assistance shall not affect the obligation of manufacturers under this subsection. Such procedures shall be reasonable for the particular type of motor vehicle or tires for which they are prescribed, and shall provide reasonable assurance that customer lists of any dealer and distributor, and similar information, will not be made available to any person other than the dealer or distributor, except where necessary to carry out the purpose of this part.

(*2*)(*A*) *Except as provided in paragraph (3), the Secretary shall not have any authority to establish any rule which requires a dealer or distributor to complete or compile the records and information specified in paragraph (1) if the business of such dealer or distributor is not owned or controlled by a manufacturer of tires.*

(*B*) *The Secretary shall require each dealer and distributor whose business is not owned or controlled by a manufacturer of tires to furnish the first purchaser of a tire with a registration form (containing the tire identification number of the tire) which the purchaser may complete and return directly to the manufacturer of the tire. The contents and format of such forms shall be established by the Secretary and shall be standardized for all tires. Sufficient copies of such forms*

shall be furnished to such dealers and distributors by manufacturers of tires.

(3)(A) At the end of the 2-year period following the effective date of this paragraph (and from time to time thereafter), the Secretary shall evaluate the extent to which the procedures established in paragraph (2) have been successful in facilitating the establishment and maintenance of records regarding the first purchasers of tires.

(B)(i) The Secretary, upon completion of any evaluation under subparagraph (A), shall determine (I) the extent to which dealers and distributors have encouraged first purchasers of tires to register the tires, and the extent to which manufacturers, dealers, and distributors have complied with the procedures established in paragraph (2); and (II) whether to impose upon manufacturers, dealers, or distributors (or any combination of such groups) any requirements which the Secretary determines will result in a significant increase in the percentage of first purchasers of tires with respect to whom records would be established and maintained.

(ii) Manufacturers of tires shall reimburse dealers and distributors for all reasonable costs incurred by them in order to comply with any requirement imposed by the Secretary under clause (i).

(iii) The Secretary may order by rule the imposition of requirements under clause (i) only if the Secretary determines that such requirements are necessary to reduce the risk to motor vehicle safety, after considering (I) the cost of such requirements to manufacturers and the burden of such requirements upon dealers and distributors, as compared to the additional percentage of first purchasers of tires with respect to whom records would be established and maintained as a result of the imposition of such requirements; and (II) the extent to which dealers and distributors have encouraged first purchasers of tires to register the tires, and the extent to which manufacturers, dealers, and distributors have complied with the procedures established in paragraph (2).

(iv) The Secretary, upon making any determination under clause (i), shall submit a report to each House of the Congress containing a detailed statement of the nature of such determination, together with an explanation of the grounds for such determination.

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MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

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TITLE I—BUMPER STANDARDS

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AUTHORIZATION OF APPROPRIATIONS

SEC. 111. There are authorized to be appropriated to carry out this [title $125,000 for the fiscal year ending June 30, 1976; $75,000 for the period beginning July 1, 1976, and ending September 30, 1976; $130,000 for the fiscal year ending September 30, 1977; and $395,000 for the fiscal year ending September 30, 1978.] *title $320,000 for fiscal*

year 1983, $343,000 for fiscal year 1984, and $365,000 for fiscal year 1985.

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TITLE II—AUTOMOBILE CONSUMER INFORMATION STUDY

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AUTHORIZATION OF APPROPRIATIONS

SEC. 209. There are authorized to be appropriated to carry out this [title $1,875,000 for the fiscal year ending June 30, 1976; $500,000 for the period beginning July 1, 1976, and ending September 30, 1976; $3,385,000 for the fiscal year ending September 30, 1977; and $3,375,000 for the fiscal year ending September 30, 1978] *title $1,677,000 for fiscal year 1983, $1,800,000 for fiscal year 1984, and $1,950,000 for fiscal year 1985.*

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TITLE IV—ODOMETER REQUIREMENTS

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AUTHORIZATION OF APPROPRIATIONS

SEC. 417. There are authorized to be appropriated to carry out this [title $450,000 for the fiscal year ending June 30, 1976; $100,000 for the period beginning July 1, 1976, and ending September 30, 1976; $650,000 for the fiscal year ending September 30, 1977; and $562,000 for the fiscal year ending September 30, 1978.] *title $183,000 for fiscal year 1983, $196,000 for fiscal year 1984, and $210,000 for fiscal year 1985.*

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ADDITIONAL VIEWS OF MR. DANFORTH

I believe that the National Highway Traffic Safety Administration in its present tasks, and hopefully in its future, has a significant role to play in the area of traffic safety. Traffic safety is a very important subject in that each day about 140 Americans are killed in automobile accidents. The recent airplane crash in New Orleans killed 147 passengers and was the second largest air tragedy in U.S. history. Yet in traffic safety, 140 people are killed every day and we seem to just more or less go along as is.

NHTSA has a tremendous opportunity to take constructive steps toward increasing safety on our highways. As a matter of fact, the Federal Government has an interest in it, a monetary interest if no other, because with the cost of Medicaid and Medicare and disability insurance borne by the taxpayers, that cost goes up with the number of accidents and injuries.

Would the U.S. Congress allow the National Transportation Safety Board to do nothing if 140 persons were killed in a major airline crash every day for even a week? Clearly not. Yet here is an agency which seems under its present management intent on doing away with almost anything constructive with respect to traffic safety. For example, NHTSA has rescinded the passive restraint rule which was scheduled to go into effect with some model cars this fall, a rule which was expected to save as many as 10,000 lives a year. Now NHTSA is fighting in court to preserve its rescission—a rescission the court has called "arbitrary and illogical."

Or consider this, there are another 300,000 Americans who will be scarred this year by windshields that shatter into tiny knives. Technology has produced a new safety windshield which would prevent shattering glass from spraying all over peoples' faces by molding a thin layer of clear plastic in the inside of the windshield. This technology is already in use in Europe. However, an antiquated NHTSA regulation aimed at precluding the use of plastic on the outside of windshields, for abrasion-resistance reasons, has prevented the introduction of this proven safety feature in America. When asked more than a year ago to immediately rescind this regulation, NHTSA refused to do so, saying that it "simply does not know enough yet about glass plastic hazing to make a decision. . . ."

Congress created NHTSA to promote safety. I really do not know if this agency is aiding traffic safety or whether it is engaged in some sort of search and destroy mission against any useful idea that is put forward to make the highways safer. Indeed, NHTSA now seems to be doing all it can to thwart safety.

We need to ask the question: By continuing to fund NHTSA are we really achieving the objective we want to achieve? It is not clear what the design or the purpose of NHTSA is under its present management. I am acquiescing in the approval of additional funds only because I look forward to the day when we can have a NHTSA which does what it is supposed to do, that is, encourage more safety on the highways. America certainly needs it.

JOHN C. DANFORTH.

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